

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1298 of 1999

in

SPECIAL CIVIL APPLICATION No 7159 of 1999

with

civil application no. 10983 of 1999

SHANTABEN K BAROT

Versus

MANUBHAI F PATEL UP SARPANCH THALTEJ GRAM PANCHAYAT

Appearance:

MR MC BHATT for Appellant

MR MEHUL SHARAD SHAH for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 2, 3

CORAM : ACTG.CHIEF JUSTICE MR. C.K.THAKKAR and

MR.JUSTICE K.M.MEHTA

Date of Order: 26/10/1999

ORAL ORDER

Admitted.

Mr. Mehul Shah appears and waives service of admission on behalf of respondent No.1-original petitioner. Mr. P.G.Desai, learned GP appears and waives service of notice of admission on behalf of respondent No.2. In facts and circumstances of the case, the matter is taken up for final hearing today.

This appeal is filed against an interim order passed by the learned Single Judge on September 21, 1999 in SCA No. 7159 of 1999. Learned Single Judge by the impugned order granted interim relief against implementation of 'no confidence motion' passed against original petitioner.

Several contentions were advanced on behalf of the appellant. In our opinion, however, it is not necessary to deal with and decide them in view of the fact that

the matter deserves to be partly allowed only on one ground.

It is undisputed fact that on September 21, 1999, the order which is impugned in the present appeal was passed by the learned Single Judge. Appellant was the only person who was heard. In fact, she was not joined as party respondent in the main matter. But at her request and application, learned Single Judge granted an opportunity of hearing to her and passed the order. One of the contentions of the appellant was that before passing interim order, it was incumbent on the part of the learned Single Judge to hear both the contesting respondents who were joined in the petition viz. State of Gujarat (original respondent No.1 and Thaltej Gram Panchayat, original respondent No.2). It was contended, on the other hand, on behalf of the original petitioner that such ground cannot be permitted to be raised by the appellant and that contention can be advanced only by one of the aggrieved parties who were not heard viz. State of Gujarat and Thaltej Gram Panchayat.

In view of the fact, however, that interim relief was granted by the learned Single Judge after hearing present appellant who was subsequently joined as respondent No.3 and that admittedly, respondent No.1- State of Gujarat and respondent No.2 Thaltej Gram Panchayat were not heard, it would be in the interest of justice if the appeal is partly allowed by making interim relief as ad-interim relief and appropriate order to be passed after hearing the parties concerned.

In view of the fact that the learned Single Judge has referred the matter to a Division Bench, it would be in the fitness of things if now the matter will be placed before a Division Bench and Division Bench will hear this matter. Ad-interim relief will continue till the matter will be heard by Division Bench and appropriate order will be passed thereon. We may state that though submissions have been made before us as well as before the learned Single Judge on merits of the matter, we express no opinion and as and when the matter is placed before the Division Bench, the Division Bench will hear, deal with and decide all contentions and submissions raised before it by the parties.

For the foregoing reason, the appeal is partly allowed. Order of interim relief is made ad-interim and the matter will now be decided by the Division Bench. Order accordingly. No order on civil application.

parekh